

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 9, 2003

IN RE:

COMPLAINT OF US LEC OF TENNESSEE, INC
AGAINST ELECTRIC POWER BOARD OF
CHATTANOOGA

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DOCKET NO.
02-00562

ORDER ESTABLISHING PROCEDURAL SCHEDULE

This matter came before the Hearing Officer on October 7, 2003 at a Status Conference convened to discuss the issues remaining following consideration of the *Motion for Summary Judgment* and a procedural schedule for completion of the proceedings in this Docket. In attendance at the Status Conference were:

US LEC of Tennessee, Inc. ("US LEC") - **Henry Walker, Esq.** - Boulton, Cummings, Conner & Berry Esquire, 414 Union Street, #1600, P.O. Box 198062, Nashville, TN 37219-8062

BellSouth Telecommunications, Inc. ("BellSouth") - **Guy M. Hicks, Esq.**, 333 Commerce Street, 22nd Floor, Nashville, TN 37201-3300

Electric Power Board of Chattanooga ("EPB") - **Mark W. Smith, Esq.** - Strang, Fletcher, Carriger, Walker, Hodge & Smith, PLLC, 400 Krystal Building, One Union Square, Chattanooga, Tennessee 37402-2514

Upon review of the *Order on the Motion for Summary Judgment*, it was determined that the remaining issues are as follows:

1. Whether EPB violated its Code of Conduct and/or the anti-cross-subsidization provisions of Tenn. Code Ann. § 7-52-402 through its joint marketing activities.

2. Whether EPB has committed discrimination or cross-subsidization by allegedly denying access to facilities.
3. Whether EPB has violated Tenn. Code Ann. § 65-4-124 by denying requests for interconnection and/ or access to "UNE-like" services.

US LEC indicated that it is currently in the process of deciding whether to pursue consideration of Issue Nos. Two and Three and suggested that some additional information from EPB may be helpful in making a decision. To this end, US LEC requested a limited amount of additional discovery, and EPB suggested that any supplemental information be obtained by stipulation between the Parties. US LEC agreed to this proposal, and the Parties requested some time to engage in this informal discovery process before proceeding with the remainder of the procedural schedule.

The following timetable is established as the procedural schedule for completion of this Docket. In the event that Issue Nos. Two and/or Three are resolved through the informal discovery process as described above, the procedural schedule will apply to consideration of only Issue No. One.

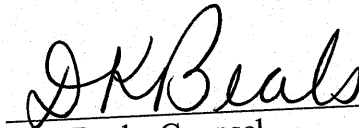
Procedural Schedule

- US LEC and EPB will complete all informal discovery on Issue Nos. Two and Three and will report to the TRA on the status of these Issues by no later than **Tuesday, October 21, 2003**;
- US LEC shall file with the TRA and serve on all Parties its Pre-filed Direct Testimony no later than **Friday, November 7, 2003**;
- EPB shall file with the TRA and serve on all Parties its Pre-filed Rebuttal Testimony no later than **Friday, December 5, 2003**;
- US LEC shall file with the TRA and serve on all Parties its Pre-filed Surrebuttal Testimony no later than **Friday, December 12, 2003**;
- The Hearing in this Docket will be held before the Hearing Officer on **Friday, December 19, beginning at 10 a.m.**

- Post-Hearing Briefs shall be filed with the TRA and served on all Parties no later than **Friday, January 16, 2003.**

IT IS THEREFORE ORDERED THAT:

The Procedural Schedule in this Docket is established as stated herein.

A handwritten signature in cursive script, appearing to read "K Beals", written over a horizontal line.

Kim Beals, Counsel
as Hearing Officer